



STATE OF MICHIGAN  
DEPARTMENT OF EDUCATION  
LANSING




JENNIFER M. GRANHOLM  
GOVERNOR

JEREMY M. HUGHES, Ph.D.  
INTERIM SUPERINTENDENT  
OF PUBLIC INSTRUCTION

**REVISED**

April 6, 2005

TO State Board of Education

FROM: Jeremy Hughes, Ph.D., Chairman 

SUBJECT: Presentation on Model Policies for Intermediate School Districts  
Regarding Conflict of Interest and Expenditure of Funds

A package of bills enacted in November 2004 amended the *Revised School Code* to make changes to certain intermediate school district (ISD) procedures and to expand certain requirements of ISDs, including but not limited to the ISD board election process, budget adoption, conflict of interest, travel, expenditures of public funds, potential performance audits, contract requirements, and additional annual reports.

2004 Public Act 419 (House Bill 5921) amended the *Revised School Code* to require each ISD to adopt a policy designed to avoid conflicts of interest by ISD officials and employees, and a policy to prohibit the use of ISD funds to make certain purchases (MCL 380.634). The Department of Education is required to develop model policies on conflict of interest and expenditure of funds and to distribute them to the ISDs to assist the ISDs in the development of their own policies. The two policies are required to be adopted and implemented by each ISD by July 1, 2005.

Attached are model policies developed pursuant to these new statutory requirements. The model policies are based upon the requirements and limitations specified in Section 380.634 of the *Revised School Code* (MCL 380.634), and were developed in collaboration with a workgroup of ISD administrators. Also attached is the text of Section 634.

It is recommended that the State Board of Education approve the *Model Conflict of Interest Policy* and the *Model Policy on the Expenditures of Funds for Intermediate School Districts* as attached to the Superintendent's revised memorandum dated April 6, 2005.

STATE BOARD OF EDUCATION

KATHLEEN N. STRAUS – PRESIDENT • JOHN C. AUSTIN – VICE PRESIDENT  
CAROLYN L. CURTIN – SECRETARY • MARIANNE YARED MCGUIRE – TREASURER  
NANCY DANHOF – NASBE DELEGATE • ELIZABETH W. BAUER  
REGINALD M. TURNER • EILEEN LAPPIN WEISER

608 WEST ALLEGAN STREET • P.O. BOX 30008 • LANSING, MICHIGAN 48909  
www.michigan.gov/mde • (517) 373-3324

**REVISED 4/6/05**

*Bold print denotes new language. Strikeout language is to be deleted.*

## **Model Conflict of Interest Policy**

Section 380.634 of the *Revised School Code* requires the Michigan Department of Education to develop and distribute to each intermediate school district (ISD) a model conflict of interest policy. Each ISD is required to adopt and implement a policy not later than July 1, 2005.

### **Preamble**

ISD board members and administrators shall perform their duties in a manner free from conflict of interest to assure the proper performance of school business as well as to earn and keep public confidence.

No ISD board member or administrator shall engage in or have financial interest in any activity that conflicts or raises a reasonable question of conflict with his or her duties and responsibilities.

The ISD board shall direct the administration to draft additional guidelines to conform to the intent of this policy.

### **Substantial Conflict of Interest**

If an ISD board member or administrator has a substantial conflict of interest in a proposed contract for services, supplies or equipment, the board shall not enter into that contract. A "substantial conflict of interest" means "...a conflict of interest on the part of an intermediate school ~~district~~ board member or intermediate school district administrator in respect to a contract with the intermediate school district that is of such substance as to induce action on his or her part to promote the contract for his or her own personal benefit."

An ISD board member or administrator is prohibited from entering into a contract if the member or administrator has a substantial conflict of interest. Excluded from substantial conflict of interest are situations as described in **section 380.634(5) of the *Revised School Code***.

### **Conflict of Interest Disclosure**

An ISD board member, administrator or employee involved in the contracting process ~~that has a family member who has an ownership interest or is employed by~~ **or under contract with** a business enterprise ~~in with~~ which the ISD is considering entering into a contract, ~~or knows that he or she has a family member who has an ownership interest or is employed by that business enterprise, the board member, administrator, or employee~~ is required to disclose this information to the ISD board at a public meeting before the ISD board enters into the contract. The ISD board is required to vote at the public meeting on whether or not it considers the relationship to be a conflict of interest. A "family member" means "...a person's spouse or spouse's sibling or child; a person's sibling or sibling's spouse or child; a person's child or child's spouse; or a person's parent or parent's spouse, and includes these relationships as created by adoption or marriage." **Determination of the existence of a conflict of interest does not prohibit the board from entering into the contract.**

### **Accepting Money, Goods and Services**

~~An ISD board member or administrator is prohibited from accepting in any one month period any money, goods, or services with a value in excess of \$44.00 if the board member does not provide goods or services of equal value in exchange. The money threshold amount is adjusted for inflation and announced by the Michigan Department of Education on or before December 15 of each year.~~

### **Conduct Involving Moral Turpitude**

~~Employment contracts for ISD school administrators shall include both a provision prohibiting the school administrator from engaging in conduct involving moral turpitude and a provision allowing the ISD board to void the contract if the school administrator violates the provision prohibiting conduct involving moral turpitude.~~

### **Contracts of Public Servants with Public Entities Act**

An ISD board member and administrator shall comply with the requirements of the *Contracts of Public Servants with Public Entities Act* [1968 PA 317, MCL 15.321-15.330].

## **Model Policy**

### **Expenditures of Funds for Intermediate School Districts (ISDs)**

Section 380.634 of the *Revised School Code* requires the Department of Education to develop and distribute to each intermediate school district a model policy to prohibit the use of public funds for the purchase of specified items. Each intermediate school district is required to adopt and implement a policy not later than July 1, 2005.

The statute defines "public funds" to mean "...funds generated from taxes levied under this act (Revised School Code), state appropriations of state or federal funds, or payments made to the intermediate school district for services by a constituent district or any other person, but does not include voluntary contributions made for a specific purpose by an intermediate school board member, an intermediate school district employee, another individual, or a private entity."

**Intermediate school district funds or other public funds under the control of the intermediate school district may not be used for purchasing the following:**

- **Alcoholic beverages**
- **Jewelry**
- **Gifts**
- **Fees for golf**
- **Any item the purchase or possession of which is illegal**

**Public funds may be used for purchasing the following for the recognition of an employee, volunteer, or pupil, if the value of the purchase does not exceed \$100 per recipient:**

- **Plaque**
- **Medal**
- **Trophy**
- **Other awards**

**The \$100 monetary threshold amount is adjusted for inflation each year and announced by the Department of Education on or before December 15 of each year.**

## THE REVISED SCHOOL CODE (EXCERPT)

Act 451 of 1976

### 380.634 Conflict of interest policy.

Sec. 634. (1) Not later than July 1, 2005, each intermediate school board shall adopt and implement a conflict of interest policy designed to avoid conflicts of interest by intermediate school district officials and employees.

(2) Not later than July 1, 2005, each intermediate school board shall adopt and implement a policy to prohibit use of intermediate school district funds or other public funds under the control of the intermediate school district for purchasing alcoholic beverages, jewelry, gifts, fees for golf, or any item the purchase or possession of which is illegal. Subject to subsection (8), the policy may allow the use of public funds for the purchase of a plaque, medal, trophy, or other award for the recognition of an employee, volunteer, or pupil if the purchase does not exceed \$100.00 per recipient. As used in this subsection, "public funds" means funds generated from taxes levied under this act, state appropriations of state or federal funds, or payments made to the intermediate school district for services by a constituent district or any other person, but does not include voluntary contributions made for a specific purpose by an intermediate school board member, an intermediate school district employee, another individual, or a private entity.

(3) The department shall develop and distribute to intermediate school districts a model conflict of interest policy for the purposes of subsection (1) and a model policy meeting the requirements of subsection (2).

(4) Subject to subsection (8), in any 1-month period, an intermediate school board member or intermediate school district administrator shall not accept from a person who does business or seeks to do business of any kind with the intermediate school district any money, goods, or services with a value in excess of \$44.00 if the board member or administrator does not provide goods or services of equal value in exchange. This subsection does not apply to a gift or reward already prohibited under section 1805.

(5) If an intermediate school board member or intermediate school district administrator has a substantial conflict of interest in a proposed contract, the intermediate school board shall not enter into that contract. As used in this subsection, "substantial conflict of interest" means a conflict of interest on the part of an intermediate school board member or intermediate school district administrator in respect to a contract with the intermediate school district that is of such substance as to induce action on his or her part to promote the contract for his or her own personal benefit. In the following cases, there is no substantial conflict of interest:

(a) A contract between the intermediate school district and any of the following:

(i) A corporation in which an intermediate school board member or intermediate school district administrator is a stockholder owning 1% or less of the total stock outstanding in any class if the stock is not listed on a stock exchange or owning stock that has a present market value of \$25,000.00 or less if the stock is listed on a stock exchange.

(ii) A corporation in which a trust, if an intermediate school board member or intermediate school district administrator is a beneficiary under the trust, owns 1% or less of the total stock outstanding in any class if the stock is not listed on a stock exchange or owns stock that has a present market value of \$25,000.00 or less if the stock is listed on a stock exchange.

(iii) A professional limited liability company organized pursuant to the Michigan limited liability company act, 1993 PA 23, MCL 450.5101 to 450.6200, if an intermediate school board member or intermediate school district administrator is an employee but not a member of the company.

(b) A contract between the intermediate school district and any of the following:

(i) A corporation in which an intermediate school board member or intermediate school district administrator is not a director, officer, or employee.

(ii) A firm, partnership, or other unincorporated association, in which an intermediate school board member or intermediate school district administrator is not a partner, member, or employee.

(iii) A corporation or firm that has an indebtedness owed to an intermediate school board member or intermediate school district administrator.

(c) A contract between the intermediate school district and a constituent district.

(d) A contract awarded to the lowest qualified bidder, upon receipt of sealed bids pursuant to a published notice for bids if the notice does not bar, except as authorized by law, any qualified person, firm, corporation, or trust from bidding. This subdivision does not apply to amendments or renegotiations of a contract or to additional payments under the contract that were not authorized by the contract at the time of award.

(6) If an intermediate school board member, intermediate school district administrator, or an employee of an intermediate school district who recommends, negotiates, or is authorized to sign a contract on behalf of the intermediate school district either is employed by or under contract with a business enterprise with which the intermediate school district is considering entering into a contract or knows that he or she has a family

member who has an ownership interest in or is employed by a business enterprise with which the intermediate school district is considering entering into a contract, the board member, administrator, or employee shall disclose this fact to the intermediate school board at a public meeting of the intermediate school board before the intermediate school board enters into the contract. If the intermediate school board receives a disclosure described in this subsection, the intermediate school board shall vote at a public meeting of the intermediate school board on whether or not it considers the relationship described in the disclosure to be a conflict of interest, and shall not enter into the contract without first voting at a public meeting of the intermediate school board to enter into the contract. As used in this subsection, "family member" means a person's spouse or spouse's sibling or child; a person's sibling or sibling's spouse or child; a person's child or child's spouse; or a person's parent or parent's spouse, and includes these relationships as created by adoption or marriage.

(7) An intermediate school board shall ensure that each employment contract with a school administrator employed by the intermediate school district includes both a provision prohibiting the school administrator from engaging in conduct involving moral turpitude and a provision allowing the intermediate school board to void the contract if the school administrator violates the provision prohibiting conduct involving moral turpitude.

(8) Beginning January 1, 2005, the monetary amounts specified in subsections (2) and (4) shall be adjusted each January 1 by multiplying the amount for the immediately preceding year by the percentage by which the average consumer price index for all items for the 12 months ending August 31 of the year in which the adjustment is made differs from that index's average for the 12 months ending on August 31 of the immediately preceding year and adding that product to the maximum amount that applied in the immediately preceding year, rounding to the nearest whole dollar. The adjustment shall apply only to expenditures or violations occurring after the date of the adjusting of the amount. The adjusted amount shall be determined and announced by the department on or before December 15 of each year and shall be provided to all persons requesting the adjusted amount. If the index is unavailable, the department shall make a reasonable approximation.

**History:** Add. 2004, Act 419, Imd. Eff. Nov. 29, 2004.

**Popular name:** Act 451